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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

UNITED STATES FOOD AND
DRUG ADMINISTRATION, et al.,

Defendants.

No. 1:23-cv-3026-TOR

UNOPPOSED MOTION OF
MEDICAL AND PUBLIC
HEALTH SOCIETIES FOR
LEAVE TO FILE AS AMICI
CURIAE IN SUPPORT OF
PLAINTIFFS' AMENDED
COMPLAINT & MOTION FOR
PRELIMINARY INJUNCTION

March 30, 2023
Without Oral Argument

UNOPPOSED MOT. OF MEDICAL AND PUBLIC HEALTH
SOCIETIES FOR LEAVE TO FILE AS AMICI CURIAE
(No. 1:23-cv-3026-TOR)

LAW OFFICES OF
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Proposed *amici* (as set forth in Section I below) respectfully move this Honorable Court for leave to file the attached brief as *amici curiae* in support of Plaintiffs' Amended Complaint and Motion for Preliminary Injunction. See ECF Nos. 3, 35. Plaintiffs and Defendants have consented to *amici* filing the attached brief.

I. IDENTITIES OF *AMICI*

Amici are leading professional organizations of physicians and public-health experts, including the leading professional societies of physicians and obstetricians-gynecologists. Specifically, *amici* include:

American College of Obstetricians and Gynecologists (ACOG): Representing more than 90% of board-certified OB/GYNs in the United States, ACOG is the nation's premier professional membership organization for obstetrician-gynecologists dedicated to access to high-quality, safe, and equitable obstetric and gynecologic care. ACOG maintains the highest standards of clinical practice and continuing education of its members, promotes patient education, and increases awareness among its members and the public of the changing issues facing women's health care. ACOG is committed to ensuring access for all people to the full spectrum of evidence-based quality reproductive health care, including abortion care, and is a leader in the effort to confront the maternal mortality crisis in the United

1 States. ACOG opposes medically unnecessary laws or restrictions that serve
2 to delay or prevent care and the criminalization of evidence-based medicine.
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4 ACOG has previously appeared as *amicus curiae* in various courts
5 throughout the country, and ACOG's briefs and guidelines have been cited
6 by numerous courts as an authoritative voice of science and medicine relating
7 to obstetric and gynecologic health care.
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9 **American Medical Association (AMA):** The American Medical
10 Association ("AMA") is the largest professional association of physicians,
11 residents, and medical students in the United States. Additionally, through
12 state and specialty medical societies and other physician groups seated in its
13 House of Delegates, substantially all physicians, residents, and medical
14 students in the United States are represented in the AMA's policy-making
15 process. The AMA was founded in 1847 to promote the art and science of
16 medicine and the betterment of public health, and these remain its core
17 purposes. AMA members practice in every medical specialty and in every
18 state, including Washington.
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23 **Society for Maternal-Fetal Medicine (SMFM):** Founded in 1977,
24 SMFM is the medical professional society for maternal-fetal medicine
25 subspecialists, who are obstetricians with additional training in high-risk
26 pregnancies. SMFM represents more than 5,500 members who care for high-

1 risk pregnant people and provides education, promotes research, and engages
2 in advocacy to advance optimal and equitable perinatal outcomes for all
3 people who desire and experience pregnancy. SMFM and its members are
4 dedicated to ensuring that all medically appropriate treatment options are
5 available for individuals experiencing a high-risk pregnancy.
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8 **American Academy of Family Physicians (AAFP):** Founded in
9 1947, the American Academy of Family Physicians is one of the largest
10 national medical organizations, representing 127,600 family physicians and
11 medical students nationwide. AAFP seeks to improve the health of the public
12 and by supporting its members in providing continuous comprehensive
13 health care to all.
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16 **American Academy of Pediatrics (AAP):** The American Academy
17 of Pediatrics was founded in 1930 and is a national, not-for-profit
18 professional organization dedicated to furthering the interests of child and
19 adolescent health. Since AAP's inception, its membership has grown from 60
20 physicians to over 67,000 primary care pediatricians, pediatric medical
21 subspecialists, and pediatric surgical specialists. Over the past 90 years, AAP
22 has become a powerful voice for child and adolescent health through
23 education, research, advocacy, and the provision of expert advice. Among
24 other things, AAP has worked with the federal and state governments, health
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1 care providers, and parents on behalf of America's adolescents to ensure the
2 availability of effective reproductive health care.
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4 **American College of Nurse-Midwives (ACNM):** The American
5 College of Nurse-Midwives is the professional association that represents
6 Certified Nurse-Midwives and Certified Midwives in the United States.
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8 ACNM's members provide evidence-based midwifery care for women and
9 gender nonconforming people throughout the lifespan, with an emphasis on
10 pregnancy, childbirth, gynecologic and reproductive health care.
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12 **American Gynecological & Obstetrical Society (AGOS):** The
13 American Gynecological & Obstetrical Society advances the health of
14 women by providing dedicated leadership and promoting excellence in
15 research, education and medical practice. The AGOS is an organization
16 composed of individuals attaining national prominence in scholarship in the
17 discipline of Obstetrics, Gynecology and Women's Health.
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20 **American Society for Reproductive Medicine (ASRM):** The
21 American Society for Reproductive Medicine is dedicated to the
22 advancement of the science and practice of reproductive medicine. Its
23 members include approximately 8,000 professionals.
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25 **Council of University Chairs of Obstetrics and Gynecology**
26 **(CUCOG):** The Council of University Chairs of Obstetrics and Gynecology

1 was established for the charitable and educational purposes of promoting
2 excellence in medical education in the fields of Obstetrics and Gynecology.
3 Today, the organization promotes and supports leadership development of
4 current and future chairs, and encourages excellence in medical student,
5 resident, and fellowship training; clinical practice; research; and advocacy in
6 women's health. CUCOG provides a forum for chairpersons to address issues
7 relevant to academic obstetrics and gynecology, and provides opportunities
8 to share ideas and network with colleagues.
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12 **North American Society for Pediatric and Adolescent Gynecology**
13 **(NASPAG):** The mission of the North American Society for Pediatric and
14 Adolescent Gynecology is to provide multidisciplinary leadership in
15 education, research and gynecologic care to improve the reproductive health
16 of youth. NASPAG pursues scientific and educational goals including
17 serving and being recognized as the leader in pediatric and adolescent
18 gynecology education, research and clinical care, conducting and
19 encouraging multidisciplinary and inter-professional programs of medical
20 education and research in the field, and advocating for the reproductive well-
21 being of children and adolescents and the provision of unrestricted, unbiased
22 and evidence-based practices.
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1 **Society of General Internal Medicine (SGIM):** The Society of
2 General Internal Medicine is a member-based international association of
3 over 3,600 of the world's leading academic general internists, who are
4 dedicated to improving access to care for vulnerable populations, eliminating
5 health care disparities and enhancing medical education. The members of the
6 Society advance the practice of medicine through their commitment to
7 providing comprehensive, coordinated, and cost-effective care to adults,
8 educating the next generation of outstanding physicians, and conducting
9 cutting-edge research to improve quality of care and clinical outcomes of all
10 patients.
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12 **Society of Gynecologic Oncology (SGO):** The Society of
13 Gynecologic Oncology contributes to the advancement of women's cancer
14 care by encouraging research, providing education, raising standards of
15 practice, advocating for patients and members, and collaborating with
16 domestic and international organizations.
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18 **Society of Gynecologic Surgeons (SGS):** The Society of Gynecologic
19 Surgeons' mission is to promote excellence in gynecologic surgery through
20 acquisition of knowledge and improvement of skills, advancement of basic
21 and clinical research, and professional and public education.
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Society of OB/GYN Hospitalists (SOGH): The Society of OB/GYN Hospitalists is a rapidly growing group of physicians, midwives, nurses, physician assistants and other individuals in the health care field who support the OB/GYN Hospitalist model. SOGH is dedicated to improving outcomes for hospitalist women and supporting those who share this mission. SOGH's vision is to shape the future of OB/GYN by establishing the hospitalist model as the care standard.

Washington State Medical Association (WSMA): The Washington State Medical Association ("WSMA") is the statewide association of physicians, surgeons, and physician assistants, with over 12,000 members. WSMA provides physician-driven, patient-focused advocacy as a knowledgeable and interested party in matters impacting the practice of medicine and the availability of health services for patients. WSMA works with Washington's lawmakers on legislation and has participated in court cases as a party and as amicus curiae on issues affecting the practice of medicine.

II. ANALYSIS

A "district court has broad discretion to appoint *amici curiae*." *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995).

1 The “classic role” of *amici curiae* is “assisting in a case of general
2 public interest, supplementing the efforts of counsel, and drawing the court’s
3 attention to law that escaped consideration.” *Miller-Wohl Co. v. Comm’r of*
4 *Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982). “District courts
5 frequently welcome *amicus* briefs from non-parties concerning legal issues
6 that have potential ramifications beyond the parties directly involved or if the
7 *amicus* has unique information or perspective that can help the court beyond
8 the help that the lawyers for the parties are able to provide.” *Chong Yim v.*
9 *City of Seattle*, No. C18-0736-JCC, 2018 WL 5825965, at *1 (W.D. Wash.
10 Nov. 7, 2018) (internal quotations and citation omitted).

11 *Amici* seek to file a brief in this case because they have significant
12 interest in the issues involved and ensuring that the safety of medication
13 abortion is correctly understood. Collectively, *amici* represent hundreds of
14 thousands of American physicians and other health professionals, including
15 thousands of physicians in the Plaintiff States. *Amici* are well-versed in
16 mifepristone’s safety and efficacy given their experience as practicing
17 medical professionals or working closely with the same. It is in *amici*’s
18 interest to protect access to vetted, safe medications, both as a matter of
19 policy and as a matter of practice. Ensuring access to evidence-based health
20 care and promoting healthcare policy that improves patient health is central

1 to each of *amici*'s missions. *Amici* believe that all patients are entitled to
2 treatment that is medically and scientifically sound without unnecessary
3 barriers that are not medically justified. Additionally, *amici* have a strong
4 interest in ensuring that legal decisions are based on sound scientific
5 evidence. *Amici* therefore seek to file this brief to provide a medical
6 perspective on the issues in this case, with a specific focus on the real-world
7 practice of medicine. The proposed brief seeks to demonstrate
8 mifepristone's proven safety and efficacy.

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12 *Amici* will provide this Court with a unique medical and scientific
13 perspective and data to help contextualize and resolve the present issues, and
14 may provide supplemental authority and argument beyond that advanced by
15 Plaintiffs. Specifically, *amici* will provide and cite scientific and medical
16 data not present in the parties' briefs, and will also offer the perspective of
17 medical professionals who both prescribe and monitor the effects of
18 mifepristone, drawn from real-world experience and peer-reviewed studies.
19 This information is highly relevant to the Court's determination of whether
20 the Food & Drug Administration should remove the January 2023 restrictions
21 (i.e., the "REMS," as defined in the brief attached) on mifepristone, as well
22 as to the balance of the equities and the public interest in the requested
23 injunction.
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Accordingly, *amici* respectfully request that the Court enter the attached proposed order and grant leave to file the attached proposed brief.

DATED this 24th day of March 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record who receives CM/ECF notification.

DATED this 24th day of March, 2023.

By: s/Daniel M. Weiskopf
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